

1 AN ACT in relation to utilities.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Public Utilities Act is amended by adding
5 Article XIX as follows:

6 (220 ILCS 5/Art. XIX heading new)

7 ARTICLE XIX. ALTERNATIVE GAS SUPPLIER LAW

8 (220 ILCS 5/19-100 new)

9 Sec. 19-100. Short title. This Article may be cited as
10 the Alternative Gas Supplier Law.

11 (220 ILCS 5/19-105 new)

12 Sec. 19-105. Definitions. For the purposes of this
13 Article, the following terms shall be defined as set forth in
14 this Section.

15 "Affiliate" has the meaning set forth in Section 7-108 of
16 this Act.

17 "Alternative gas supplier" means every person,
18 cooperative, corporation, municipal corporation, company,
19 association, joint stock company or association, firm,
20 partnership, individual, or other entity, their lessees,
21 trustees, or receivers appointed by any court whatsoever,
22 that offers gas for sale, lease, or in exchange for other
23 value received to one or more customers, or that engages in
24 the furnishing of gas to one or more customers, and shall
25 include affiliated interests of a gas utility, resellers,
26 aggregators and marketers, but shall not include (i) gas
27 utilities (or any agent of the gas utility to the extent the
28 gas utility provides tariffed services to customers through
29 an agent); (ii) public utilities that are owned and operated

1 by any political subdivision, public institution of higher
2 education or municipal corporation of this State, or public
3 utilities that are owned by a political subdivision, public
4 institution of higher education, or municipal corporation and
5 operated by any of its lessees or operating agents; (iii)
6 residential natural gas cooperatives that are not-for-profit
7 corporations established for the purpose of administering and
8 operating, on a cooperative basis, the furnishing of natural
9 gas to residences for the benefit of their members who are
10 residential consumers of natural gas; and (iv) the ownership
11 or operation of a facility that sells compressed natural gas
12 at retail to the public for use only as a motor vehicle fuel
13 and the selling of compressed natural gas at retail to the
14 public for use only as a motor vehicle fuel.

15 "Gas utility" means a public utility, as defined in
16 Section 3-105 of this Act, that has a franchise, license,
17 permit, or right to furnish or sell gas or transportation
18 services to customers within a service area.

19 "Residential customer" means a customer who receives gas
20 utility service for household purposes distributed to a
21 dwelling of 2 or fewer units which is billed under a
22 residential rate or gas utility service for household
23 purposes distributed to a dwelling unit or units which is
24 billed under a residential rate and is registered by a
25 separate meter for each dwelling unit.

26 "Service area" means (i) the geographic area within which
27 a gas utility was lawfully entitled to provide gas to
28 customers as of the effective date of this amendatory Act of
29 the 92nd General Assembly and includes (ii) the location of
30 any customer to which the gas utility was lawfully providing
31 gas utility services on such effective date.

32 "Small commercial customer" means those nonresidential
33 retail customers of a natural gas utility or alternative gas
34 supplier consuming 5,000 therms or less of natural gas

1 annually.

2 "Tariffed service" means a service provided to customers
3 by a gas utility as defined by its rates on file with the
4 Commission pursuant to the provisions of Article IX of this
5 Act.

6 "Transportation services" means those services provided
7 by the gas utility that are necessary in order for the
8 storage, transmission and distribution systems to function so
9 that customers located in the gas utility's service area can
10 receive gas from suppliers other than the gas utility and
11 shall include, without limitation, standard metering and
12 billing services.

13 (220 ILCS 5/19-110 new)

14 Sec. 19-110. Certification of alternative gas suppliers.

15 (a) The provisions of this Section shall apply only to
16 alternative gas suppliers serving or seeking to serve
17 residential or small commercial customers and only to the
18 extent such alternative gas suppliers provide services to
19 residential or small commercial customers.

20 (b) An alternative gas supplier must obtain a
21 certificate of service authority from the Commission in
22 accordance with this Section before serving any customer or
23 other user located in this State. An alternative gas
24 supplier may request, and the Commission may grant, a
25 certificate of service authority for the entire State or for
26 a specified geographic area of the State. A person,
27 corporation, or other entity acting as an alternative gas
28 supplier on the effective date of this amendatory Act of the
29 92nd General Assembly shall have 180 days from the effective
30 date of this amendatory Act of the 92nd General Assembly to
31 comply with the requirements of this Section in order to
32 continue to operate as an alternative gas supplier.

33 (c) An alternative gas supplier seeking a certificate of

1 service authority shall file with the Commission a verified
2 application containing information showing that the applicant
3 meets the requirements of this Section. The alternative gas
4 supplier shall publish notice of its application in the
5 official State newspaper within 10 days following the date of
6 its filing. No later than 45 days after the application is
7 properly filed with the Commission, and such notice is
8 published, the Commission shall issue its order granting or
9 denying the application.

10 (d) An application for a certificate of service
11 authority shall identify the area or areas in which the
12 applicant intends to offer service and the types of services
13 it intends to offer. Applicants that seek to serve
14 residential customers within a geographic area that is
15 smaller than a gas utility's service area shall submit
16 evidence demonstrating that the designation of this smaller
17 area does not violate Section 19-115. An applicant may state
18 in its application for certification any limitations that
19 will be imposed on the number of customers or maximum load to
20 be served.

21 (e) The Commission shall grant the application for a
22 certificate of service authority if it makes the findings set
23 forth in this subsection based on the verified application
24 and such other information as the applicant may submit.

25 (1) That the applicant possess sufficient
26 technical, financial, and managerial resources and
27 abilities to provide the service for which it seeks a
28 certificate of service authority. In determining the
29 level of technical, financial, and managerial resources
30 and abilities which the applicant must demonstrate, the
31 Commission shall consider the characteristics, including
32 the size and financial sophistication of the customers
33 that the applicant seeks to serve, and shall consider
34 whether the applicant seeks to provide gas using

1 property, plant, and equipment that it owns, controls, or
2 operates.

3 (2) That the applicant will comply with all
4 applicable federal, State, regional, and industry rules,
5 policies, practices, and procedures for the use,
6 operation, and maintenance of the safety, integrity, and
7 reliability of the gas transmission system.

8 (3) That the applicant will comply with such
9 informational or reporting requirements as the Commission
10 may by rule establish.

11 (4) That the area to be served by the applicant and
12 any limitations it proposes on the number of customers or
13 maximum amount of load to be served meet the provisions
14 of Section 19-115, provided, that if the applicant seeks
15 to serve an area smaller than the service area of a gas
16 utility or proposes other limitations on the number of
17 customers or maximum amount of load to be served, the
18 Commission can extend the time for considering such a
19 certificate request by up to 90 days, and can schedule
20 hearings on such a request.

21 (5) That the applicant will comply with all other
22 applicable laws and rules.

23 (f) The Commission shall have the authority to
24 promulgate rules to carry out the provisions of this Section.
25 Within 30 days after the effective date of this amendatory
26 Act of the 92nd General Assembly, the Commission shall adopt
27 an emergency rule or rules applicable to the certification of
28 those gas suppliers that seek to serve residential customers.
29 Within 180 days of the effective date of this amendatory Act
30 of the 92nd General Assembly, the Commission shall adopt
31 rules that specify criteria which, if met by any such
32 alternative gas supplier, shall constitute the demonstration
33 of technical, financial, and managerial resources and
34 abilities to provide service required by item (1) of

1 subsection (e) of this Section, such as a requirement to post
2 a bond or letter of credit, from a responsible surety or
3 financial institution, of sufficient size for the nature and
4 scope of the services to be provided, demonstration of
5 adequate insurance for the scope and nature of the services
6 to be provided, and experience in providing similar services
7 in other jurisdictions.

8 (220 ILCS 5/19-115 new)

9 Sec. 19-115. Obligations of alternative gas suppliers.

10 (a) The provisions of this Section shall apply only to
11 alternative gas suppliers serving or seeking to serve
12 residential or small commercial customers and only to the
13 extent such alternative gas suppliers provide services to
14 residential or small commercial customers.

15 (b) An alternative gas supplier shall:

16 (1) comply with the requirements imposed on public
17 utilities by Sections 8-201 through 8-207, 8-301, 8-505
18 and 8-507 of this Act, to the extent that these Sections
19 have application to the services being offered by the
20 alternative gas supplier; and

21 (2) continue to comply with the requirements for
22 certification stated in Section 19-110.

23 (c) An alternative gas supplier shall obtain verifiable
24 authorization from a customer, in a form or manner approved
25 by the Commission, before the customer is switched from
26 another supplier.

27 (d) No alternative gas supplier shall:

28 (1) enter into or employ any arrangements which
29 have the effect of preventing any customer from having
30 access to the services of the gas utility in whose
31 service area the customer is located; or

32 (2) charge customers for such access.

33 (e) An alternative gas supplier that is certified to

1 serve residential or small commercial customers shall not:

2 (1) deny service to a customer or group of
3 customers nor establish any differences as to prices,
4 terms, conditions, services, products, facilities, or in
5 any other respect, whereby such denial or differences are
6 based upon race, gender, or income; or

7 (2) deny service based on locality, nor establish
8 any unreasonable difference as to prices, terms,
9 conditions, services, products, or facilities as between
10 localities.

11 (f) An alternative gas supplier shall comply with the
12 following requirements with respect to the marketing,
13 offering, and provision of products or services:

14 (1) Any marketing materials which make statements
15 concerning prices, terms, and conditions of service shall
16 contain information that adequately discloses the prices,
17 terms and conditions of the products or services.

18 (2) Before any customer is switched from another
19 supplier, the alternative gas supplier shall give the
20 customer written information that adequately discloses,
21 in plain language, the prices, terms, and conditions of
22 the products and services being offered and sold to the
23 customer.

24 (3) The alternative gas supplier shall provide to
25 the customer:

26 (A) itemized billing statements that describe
27 the products and services provided to the customer
28 and their prices and that, at a minimum, specify the
29 gas consumption amount, price per therm,
30 distribution charges, and any service charges and
31 taxes; and

32 (B) an additional statement, at least
33 annually, that adequately discloses the average
34 monthly prices, and the terms and conditions, of the

1 products and services sold to the customer.

2 The Commission shall prescribe performance standards for
3 alternative gas supplier billing relating to accuracy and
4 timeliness of customer bills.

5 (g) An alternative gas supplier may limit the overall
6 size or availability of a service offering by specifying one
7 or more of the following:

8 (1) a maximum number of customers and maximum
9 amount of gas load to be served;

10 (2) time period during which the offering will be
11 available; or

12 (3) other comparable limitation, but not including
13 the geographic locations of customers within the area
14 which the alternative gas supplier is certificated to
15 serve.

16 The alternative gas supplier shall file the terms and
17 conditions of such service offering including the applicable
18 limitations with the Commission prior to making the service
19 offering available to customers.

20 (h) Nothing in this Section shall be construed as
21 preventing an alternative gas supplier that is an affiliate
22 of, or which contracts with, (i) an industry or trade
23 organization or association, (ii) a membership organization
24 or association that exists for a purpose other than the
25 purchase of gas, or (iii) another organization that meets
26 criteria established in a rule adopted by the Commission from
27 offering through the organization or association services at
28 prices, terms and conditions that are available solely to the
29 members of the organization or association.

30 (i) Whenever an alternative gas supplier discovers or
31 has called to its attention a billing error or other mistake
32 resulting in an overpayment by a customer, the alternative
33 gas supplier shall automatically and immediately provide a
34 refund of the amount of overpayment plus interest to the

1 customer. An alternative gas supplier may not require a
2 customer to whom it owes a refund to submit a written request
3 for the refund before the alternative gas supplier complies
4 with the provisions of this subsection.

5 (j) If an alternative gas supplier requires a deposit
6 from a residential or small commercial customer and the
7 customer has paid all bills from the alternative gas supplier
8 in a timely manner for a period of 6 months, the alternative
9 gas supplier shall refund the deposit plus interest to the
10 customer within 30 days. In all cases, a deposit shall be
11 automatically refunded with interest to a customer within 30
12 days after the date that the customer changes gas suppliers
13 or discontinues service if the customer has satisfied all of
14 his or her outstanding financial obligations to the
15 alternative gas supplier.

16 (220 ILCS 5/19-120 new)

17 Sec. 19-120. Commission oversight of services provided
18 by gas suppliers.

19 (a) The provisions of this Section shall apply only to
20 alternative gas suppliers serving or seeking to serve
21 residential or small commercial customers and only to the
22 extent such alternative gas suppliers provide services to
23 residential or small commercial customers.

24 (b) The Commission shall have jurisdiction in accordance
25 with the provisions of Article X of this Act to entertain and
26 dispose of any complaint against any alternative gas supplier
27 alleging that:

28 (1) the alternative gas supplier has violated or is
29 in nonconformance with any applicable provisions of
30 Section 19-110 or Section 19-115;

31 (2) an alternative gas supplier has failed to
32 provide service in accordance with the terms of its
33 contract or contracts with a customer or customers;

1 (3) the alternative gas supplier has violated or is
2 in nonconformance with the transportation services tariff
3 of, or any of its agreements relating to transportation
4 services with, the gas utility or municipal system
5 providing transportation services; or

6 (4) the alternative gas supplier has violated or
7 failed to comply with the requirements of Sections 8-201
8 through 8-207, 8-301, 8-505, or 8-507 of this Act as made
9 applicable to alternative gas suppliers.

10 (c) The Commission shall have authority after notice and
11 hearing held on complaint or on the Commission's own motion
12 to:

13 (1) order an alternative gas supplier to cease and
14 desist, or correct, any violation of or nonconformance
15 with the provisions of Section 19-110 or 19-115;

16 (2) impose financial penalties for violations of or
17 nonconformances with the provisions of Section 19-110 or
18 19-115, not to exceed (i) \$10,000 per occurrence or (ii)
19 \$30,000 per day for those violations or nonconformances
20 which continue after the Commission issues a
21 cease-and-desist order; and

22 (3) alter, modify, revoke, or suspend the
23 certificate of service authority of an alternative gas
24 supplier for substantial or repeated violations of or
25 nonconformances with the provisions of Section 19-110 or
26 19-115.

27 (220 ILCS 5/19-125 new)

28 Sec. 19-125. Non-discrimination; adoption of rules. The
29 Commission shall adopt rules governing the relationship
30 between the gas utility and its affiliates and ensuring
31 non-discrimination in services provided to the utility's
32 affiliates and any competitors of the utility's affiliates,
33 including, without limitation, cost allocation,

1 cross-subsidization, and information sharing. Gas utilities
2 and their affiliates are prohibited from all joint marketing
3 of services and products. This prohibition includes, but is
4 not limited to, an affiliate using the utility's name or
5 logo.

6 (220 ILCS 5/19-130 new)

7 Sec. 19-130. Services provided by gas utilities to
8 alternative gas suppliers; single billing. In any service
9 area where customers are able to choose their natural gas
10 supplier, a gas utility shall file a tariff pursuant to
11 Article IX of this Act that allows alternative gas suppliers
12 or gas utilities other than the gas utility in whose service
13 area customers are located to issue single bills to the
14 customers for both the services provided by the alternative
15 gas supplier or other gas utility and the delivery services
16 provided by the gas utility to customers. The tariff filed
17 pursuant to this subsection shall (i) require partial
18 payments made by customers to be credited first to the gas
19 utility's tariffed services, (ii) impose commercially
20 reasonable terms with respect to credit and collection,
21 including requests for deposits, (iii) retain the gas
22 utility's right to disconnect customers, if it does not
23 receive payment for its tariffed services, in the same manner
24 that it would be permitted to if it had billed for the
25 services itself, and (iv) require the alternative gas
26 supplier or other gas utility that elects the billing option
27 provided by this tariff to include on each bill to customers
28 an identification of the gas utility providing the delivery
29 services and a listing of the charges applicable to the
30 service. The tariff filed pursuant to this Section may also
31 include other just and reasonable terms and conditions.

32 (220 ILCS 5/19-135 new)

1 Sec. 19-135. Consumer education.

2 (a) The Commission shall make available upon request and
3 at no charge, and shall make available to the public on the
4 Internet through the State of Illinois World Wide Web site:

5 (1) a list of all certified alternative gas
6 suppliers serving residential and small commercial
7 customers within the service area of each gas utility;

8 (2) a list of all certified alternative gas
9 suppliers serving residential or small commercial
10 customers that have been found in the last 3 years by the
11 Commission pursuant to Section 10-108 to have failed to
12 provide service in accordance with the terms of their
13 contracts with those customers;

14 (3) guidelines to assist customers in determining
15 which gas supplier is most appropriate for each customer;
16 and

17 (4) information in an easily understandable format
18 that enables customers to compare all prices and services
19 of every gas utility and alternative gas supplier
20 providing service within each service area.

21 (b) The Commission shall adopt reasonable rules
22 requiring gas utilities and alternative gas suppliers to
23 provide notification to customers relating to where customers
24 may obtain such pricing information.

25 (c) The Commission shall also adopt a uniform disclosure
26 form that alternative gas suppliers must complete to enable
27 consumers to compare prices, terms, and conditions offered by
28 the suppliers.

29 (220 ILCS 5/19-140 new)

30 Sec. 19-140. Commission study and report. Beginning in
31 2003, and ending in 2007, the Commission shall prepare an
32 annual report regarding the development of natural gas
33 markets in Illinois. The report shall be filed by April 1 of

1 each year with the Joint Committee on Legislative Support
2 Services of the General Assembly and the Governor and shall
3 be publicly available. The report shall include, at a
4 minimum, the following information:

5 (1) the aggregate annual demand of retail natural
6 gas customers in the State of Illinois in the preceding
7 calendar year;

8 (2) the total annual therms delivered and sold to
9 retail customers in the State of Illinois by each gas
10 utility within its own service area, each gas utility
11 outside its service area, and alternative gas suppliers
12 in the preceding calendar year;

13 (3) the percentage of therms delivered and sold to
14 customers in the State of Illinois in the preceding
15 calendar year by each gas utility within its service
16 area, each gas utility outside its service area, and each
17 alternative gas supplier;

18 (4) an analysis of the benefits consumers have
19 achieved through the market, if any, including a
20 comparison of the average cost of natural gas for utility
21 customers and the average cost of natural gas for
22 customers of alternative gas suppliers; and

23 (5) any other information the Commission considers
24 significant in assessing the development of gas markets
25 in the State of Illinois.

26 Section 99. Effective date. This Act takes effect upon
27 becoming law.